



## State of Utah

### Department of Natural Resources

MICHAEL R. STYLER  
*Executive Director*

### Division of Oil, Gas & Mining

JOHN R. BAZA  
*Division Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY R. HERBERT  
*Lieutenant Governor*

September 9, 2005

CERTIFIED RETURN RECEIPT  
7002 0510 0003 8603 3202

Mike Pauletto  
I & P Investments, LLC.  
10517 N. E. 50<sup>th</sup> Avenue  
Vancouver, Washington 98686

Subject: Proposed Assessment for State Notices of Violation No. MN-05-01-12(Violations 1 & 2), I & P Investments, Green Peak Quarry (M/003/060), Box Elder County, Utah

Dear Mr. Pauletto:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced Notices of Violation. The violations were issued by Division Inspector, Lynn Kunzler, on August 22, 2005. Rule R647-7-103 et. seq. has been utilized to formulate the proposed penalty for the violations as follows:

- MN-05-01-12- Violation 1 of 2      \$1430
- MN-05-01-02- Violation 2 of 2      \$ 0

The enclosed worksheet specifically outlines how the violation was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this Cessation Order or Violation has been considered in determining the facts surrounding the violation and the amount of penalty. If the violation has not been abated at the time of the proposed assessment, the assignment of good faith points cannot be made. If you feel that you are eligible for good faith, you should supply relevant information to the assessment officer within 15 days of the violation abatement date so that it can be factored into the final assessment.

Mike Pauletto  
Page 2 of 6  
M/003/060  
September 9, 2005

Otherwise, under R647-7-106, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of the Cessation Order or fact of the Violation, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director or Associate Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph one, the assessment conference will be scheduled immediately following that review.

**If a timely request for review is not made, the fact of the cessation order and the fact of the violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the final assessment.** Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,



For Daron R. Haddock  
Assessment Officer

Enclosure: Worksheets

cc: Vickie Southwick, Exec. Sec.  
Vicki Bailey, Accounting

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**WORKSHEET FOR ASSESSMENT OF PENALTIES  
DIVISION OF OIL, GAS & MINING  
Minerals Regulatory Program**

COMPANY / MINE I & P Investments, LLC. /Green Peak Quarry PERMIT S/003/060

NOV / CO # MN-05-01-12(2)

VIOLATION 1 of 2

ASSESSMENT DATE September 9, 2005

ASSESSMENT OFFICER Daron R. Haddock

**I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)**

- A. Are there previous violations, which are not pending or vacated, which fall within three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>none</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

**TOTAL HISTORY POINTS 0**

**II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)**

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event  
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS 15

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *An Operator is required to salvage topsoil prior to conducting mining operations. Acreage has been disturbed at this location without salvaging the topsoil for use in future reclamation. There is a loss of soil resources that are now buried beneath a waste rock dump. This situation could create a loss of reclamation or revegetation potential Unless soil resources are recovered the probability of this is fairly high. Thus the assignment of points in the middle of the Likely range.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS 8

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *The inspector stated that the operator has buried as much as 2400 yards of soil resources. The damage was the loss of resources and soil for future reclamation. Further discussion with the inspector revealed that the damage can be corrected. While much of the soil and vegetation have been buried by overburden or scraped from the site of disturbance, the site could still be reclaimed. Damage is assessed in the lower 1/3 of the range.*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement?                       
RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS                     

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\*

TOTAL SERIOUSNESS POINTS (A or B) 23

**III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)**

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 10

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* The operator indicated that he had equipment break down and could not stockpile the soil materials with other equipment he had on site. However, he did have equipment that he could have salvaged the soil and stored in temporarily in a different *This indicates indifference to the rules or lack of reasonable care. A prudent operator would understand the need to salvage available soil resources prior to disturbing additional area. The Operator was negligent in this regard, thus the assignment of points in the middle part of the negligence range.*

**IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)**

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0
	(Operator complied within the abatement period required)	
	(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)	

\*Assign in upper or lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- |   |   |             |
|---|---|-------------|
| X | Rapid Compliance  | -11 to -20* |
|   | (Permittee used diligence to abate the violation)   |             |
| X | Normal Compliance   | -1 to -10*  |
|   | (Operator complied within the abatement period required)  |             |
| X | Extended Compliance   | 0           |
|   | (Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete) |             |
|   | (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)   |             |

EASY OR DIFFICULT ABATEMENT? \_\_\_\_\_

ASSIGN GOOD FAITH POINTS 0

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *The abatement has not yet been completed, so good faith points cannot be awarded at this time. This category will be looked at again after the abatement has been completed. Points will be awarded depending on how quickly the abatement is met.*

**V. ASSESSMENT SUMMARY (R647-7-103.3)**

NOTICE OF VIOLATION # MN-05-01-12(2)

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>23</u>
III.	TOTAL NEGLIGENCE POINTS	<u>10</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-</u>
	TOTAL ASSESSED POINTS	<u>33</u>

**TOTAL ASSESSED FINE** \$ 1,430

**WORKSHEET FOR ASSESSMENT OF PENALTIES**  
**DIVISION OF OIL, GAS & MINING**  
**Minerals Regulatory Program**

COMPANY / MINE I & P Investments, LLC. /Green Peak Quarry PERMIT M/003/060

NOV / CO # MN-05-01-12(2) VIOLATION 2 of 2

ASSESSMENT DATE September 9, 2005

ASSESSMENT OFFICER Daron R. Haddock

**I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)**

- A. Are there previous violations, which are not pending or vacated, which fall within three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>none</u>	<u></u>	<u></u>
<u></u>	<u></u>	<u></u>

**TOTAL HISTORY POINTS 0**

**II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)**

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Administrative  
(assign points according to A or B)

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS N/A

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *There is potential for environmental harm and water pollution to occur as a result of untreated runoff leaving the site. Currently runoff is contained along the highway borrow pit. It would take a large runoff event for water to overflow the highway and enter into the creek. It is not very likely that this would occur. Because of the potential for damage points are assigned in the upper part of the Unlikely range.*

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS N/A

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\*

B. ADMINISTRATIVE VIOLATIONS (Max 25pts)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? Actual

RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS 5

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *By not placing the perimeter markers as required by the permit prior to expanding into the new area the inspector was hindered. He was not able to determine whether or not the operation was within the permitted area. This could have the potential for being serious if the Operator had expanded beyond the approved permit area. As it turned out when the markers were later installed the operation was within the approved boundary and no damage occurred. Points are assigned in the lower part of the Range.*



TOTAL SERIOUSNESS POINTS (A or B) 5

III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, the failure to abate any violation due to the same or was economic gain realized by the permittee? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Negligence

ASSIGN NEGLIGENCE POINTS 10

PROVIDE AN EXPLANATION OF POINTS:

\*\*\* *A Permit Condition required the operator to install permit area markers prior to disturbing and area. The quarry foreman was aware of the permit requirement to mark the area, and materials were on site. For whatever reason, he had not taken the time to place the markers before he expanded the disturbed area. This indicates indifference to the rules or lack of reasonable care. A prudent operator would understand the need to mark the boundary. The Operator was negligent in this regard, thus the assignment of points in the middle part of the negligence range.*

V. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)

(Either A or B) (Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?  
IF SO--EASY ABATEMENT

Easy Abatement Situation

X	Immediate Compliance	-11 to -20*
	(Immediately following the issuance of the NOV)	
X	Rapid Compliance	-1 to -10
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	0

(Operator complied within the abatement period required)  
(Operator complied with condition and/or terms of  
approved Mining and Reclamation Plan)

\*Assign in upper of lower half of range depending on abatement occurring the 1st  
or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does  
the situation require the submission of plans prior to physical activity to achieve  
compliance?

**IF SO--DIFFICULT ABATEMENT**

**Difficult Abatement Situation**

X	Rapid Compliance	-11 to -20*
	(Permittee used diligence to abate the violation)	
X	Normal Compliance	-1 to -10*
	(Operator complied within the abatement period required)	
X	Extended Compliance	0
	(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete) (Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)	

EASY OR DIFFICULT ABATEMENT? Easy

**ASSIGN GOOD FAITH POINTS -15**

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* *The Operator achieved rapid compliance by completing the abatement almost  
immediately. Even though the abatement wasn't required until September 30,  
2005, an inspection on August 24, 2005 (just two days after the NOV was  
issued) found that the violation had been abated. Thus assignment of points in  
the Rapid Compliance category.*

**V. ASSESSMENT SUMMARY (R647-7-103.3)**

NOTICE OF VIOLATION # <u>MC-04-02-05(1)</u>	
I.	TOTAL HISTORY POINTS <u>0</u>
II.	TOTAL SERIOUSNESS POINTS <u>5</u>
III.	TOTAL NEGLIGENCE POINTS <u>10</u>
IV.	TOTAL GOOD FAITH POINTS <u>-15</u>
	TOTAL ASSESSED POINTS <u>0</u>

**TOTAL ASSESSED FINE \$ 0**